

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 27**

**THE HERTZ CORPORATION**

**Employer**

**and**

**Case 27-RC-155978**

**INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, LOCAL 222**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

The Employer, The Hertz Corporation, is a national rental car agency with a facility and place of business in Salt Lake City, Utah. The Petitioner, the International Brotherhood of Teamsters, Local 222, filed a petition seeking to represent certain employees of the Employer. As set forth below, in the absence of any litigable issues, I have decided to direct an election in the unit the parties have stipulated to and to conduct the election during the voting times and at the voting place agreed upon by the parties. I have further decided to conduct the election on August 6, 2015.

A hearing was held before a hearing officer of the National Labor Relations Board on July 23, 2015. Based upon the record and for the reasons set forth below, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The parties stipulated, and I find, that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time CSRs, Gold CSRs, Gold Choice Representatives, and Instant Return Representatives employed by the Employer at its Salt Lake City facility located at 775 North Terminal Drive, Salt Lake City, Utah, **excluding** all managers, guards, and supervisors as defined in the Act, and all other employees employed by The Hertz Corporation and all other brands, including, but not limited to Dollar, Thrifty Automotive Group and Firefly.

### **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 222.

#### **A. Election Details**

As agreed to by the parties, the election will be held 10:30 a.m. to 12:00 p.m. and from 5:00 p.m. to 6:30 p.m. at the vacant City Operations office in the southeast corner of the Hertz operations building located at 681 North, 3800 West, Salt Lake City, UT 84116. The parties do not agree on the date on which to conduct the election. Pursuant to its longstanding practice, the Board has left such determinations to the discretion of the Regional Director. See generally *Halliburton Services*, 265 NLRB 1154, 1155-1156 (1982); *Manchester Knitted Fashions, Inc.*, 108 NLRB 1366, 1367-1368 (1954); *Wade and Paxton*, 90 NLRB 1227 (1950). See also NLRB Casehandling Manual (Part Two), Representation Proceedings Sections 11228, 11301.4.

The Petitioner is seeking an election date of August 6 or August 7, 2015. The Employer is seeking an election date of August 13, 2015.

According to the Employer, August 6, 2015 through August 9, 2015, are “blackout” dates for the Employer due to a large operator retailer convention being held in Salt Lake City during that time. During the convention, one of the busiest times of the year, the Employer requires all of its employees to work their regularly scheduled days and does not allow any individuals to take time off for personal purposes. The Employer contends that during the blackout dates, some employees might be reluctant to vote during such a busy period since as employees earn incentives. As the petitioned-for bargaining unit consists of approximately 24 employees, the Employer contends that it would be preferable to conduct the election when the convention is over and when the most employees are scheduled to be at work, which is August 13, 2015.

The Petitioner contends that the polling times on either August 6 or 7, 2015 will be sufficient to allow employees the opportunity to vote with little or no disruption to the

Employer's operations or to the employees' compensation. The Petitioner further contends that the Employer's position on the blackout dates, August 6 through August 9, 2015, actually supports conducting an election on those August 6 or 7, 2015, because employees are less likely to be out of town or on vacation.

I find that the election can be appropriately conducted on August 6, 2015.

### **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending July 23, 2015, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

### **C. Voter List**

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by July 31, 2015. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on

the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

#### **D. Posting of Notices of Election**

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

#### **RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents,

enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: July 29, 2015

*/s/ Kelly A. Selvidge*

---

Kelly A. Selvidge  
ACTING REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 27  
Byron Rogers Federal Office Building  
1961 Stout Street, Suite 13-103  
Denver, CO 80294